

## IN THE UNITED STATES DISTRICT COURT

## FOR THE NORTHERN DISTRICT OF CALIFORNIA

ERIC JOHNSON,

No. C 20-4298 WHA (PR)

Petitioner,

**ORDER OF DISMISSAL**

v.

(Docket Nos. 4, 5)

SECRETARY,

Respondent.

Petitioner, a California prisoner proceeding pro se, filed this habeas case under 28 U.S.C. § 2254. While incarcerated, petitioner has violated prison rules against indecent exposure on multiple occasions, and state authorities criminally prosecuted him and obtained convictions for such behavior. In 2012, petitioner filed a federal habeas petition challenging one of these convictions — from 2005. *See Johnson v. Director*, No. 12-6393 WHA (PR). That federal petition was dismissed as untimely under the one-year limitations period established by the Anti-terrorism and Effective Death Penalty Act (“AEDPA”) because there was a four-year gap between the end of his direct appeals and the filing of his federal petition. commencement of his collateral challenges to his conviction.

In the instant petition, petitioner challenges a much older conviction for indecent exposure, from 1993. For the same reasons that the prior federal petition challenging a more recent state court conviction was untimely, the instant petition challenging an older conviction is untimely. Specifically, the direct appeals from the conviction challenged herein ended in

1 1994, 26 years before he filed the instant petition and 23 years after the expiration of the  
2 limitations period for federal petitions filed prior to AEDPA's enactment in 1996. *See*  
3 *Patterson v. Stewart*, 251 F.3d 1243, 1246 (9th Cir. 2001) (a prisoner with a state conviction  
4 finalized before April 24, 1996, therefore had until April 24, 1997, to file a federal habeas  
5 petition on time). And while petitioner did file habeas petitions in state court challenging the  
6 conviction he challenges here, he did not do so until 2019, more than 20 years after the  
7 limitations period had expired, and therefore they do not save the instant federal petition from  
8 being untimely. *See Ferguson v. Palmateer*, 321 F.3d 820, 823 (9th Cir. 2003) (state habeas  
9 petition filed after AEDPA's statute of limitations ended cannot toll the limitations period).

10 For the foregoing reasons, the instant petition is **DISMISSED**. The request to proceed in  
11 forma pauperis is **GRANTED**, in light of which the motions for a temporary restraining order  
12 pertaining to trust fund documentation are **DENIED** as unnecessary. No certificate of  
13 appealability is warranted in this case because a reasonable jurist would not find the dismissal  
14 of this petition debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

15 The clerk shall enter judgment and close the file.

16 **IT IS SO ORDERED.**

17 Dated: November 17, 2020.

18   
19 WILLIAM ALSUP  
20 UNITED STATES DISTRICT JUDGE  
21  
22  
23  
24  
25  
26  
27  
28